

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

United States District Court
Southern District of Texas
FILED

JUL 26 2002

Michael N. Milby
Clerk of Court

LUIS ALEJANDRO GARZA

VS.

THE UNITED STATES OF
AMERICA

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MISCELLANEOUS

B - 02 - 018

CIVIL ACTION NO. _____
FEDERAL TORT CLAIMS ACT

CIVIL ACTION
B - 02 - 154 ✓

COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, LUIS ALEJANDRO GARZA, Plaintiff, complaining of THE UNITED STATES OF AMERICA, Defendant, and for cause of action would respectfully show as follows:

1.

This suit is brought under the Federal Torts Claims Act, 28 U.S.C. section 2671 et. seq., allegedly that the negligence of employees of the Bureau of Prisons was a proximate cause of severe personal injuries suffered by Plaintiff.

2.

PARTIES

Plaintiff, Luis Alejandro Garza, is a resident of Brownsville, Cameron County, Texas.

3.

JURISDICTION

This court has jurisdiction pursuant to 28 U.S.C. section 1346 (b) (1) as this is a civil action for money damages against the United States of America.

4.

VENUE

Venue is appropriate in this court pursuant to 28 U.S.C. section 1402 (b) as this is a civil action on a tort claim against the United States in which the Plaintiff resides within this district and division.

5.

PREREQUISITES TO SUIT

Pursuant to 28 U.S.C. section 2675 Plaintiff's claim has been presented to the Bureau of Prisons within two years of the occurrence in question and not more than six months has passed since the express denial of Plaintiff's claim by correspondence from the Bureau of Prisons dated March 4, 2002.

6.

FACTS

On or about February 6, 2001, Plaintiff, a prisoner of Defendant's Three Rivers Correctional Facility at Three Rivers, Texas was brutally attacked and severely beaten by multiple inmates. Defendant was negligent by failing to use ordinary diligence to keep its prisoners safe and free from harm. 18 U.S.C. 4042. Defendant's negligence was a proximate cause of serious and permanent injuries suffered by plaintiff.

7.

As a proximate result of Defendant's negligence, Plaintiff has suffered severe physical pain and mental anguish in the past and, in reasonable probability, will suffer pain and mental anguish for the rest of his life.

8.

As a further proximate result of Defendant's negligence, Plaintiff has suffered a loss of earnings in the past and, in reasonable medical probability, will suffer a loss of earning capacity in the future.

9.

As a further proximate result of Defendant's negligence, Plaintiff has suffered disfigurement in the past and, in reasonable medical probability, will suffer disfigurement for the rest of his life.

10.

As a further proximate result of Defendant's negligence, Plaintiff has suffered physical impairment and loss of enjoyment in life and, in reasonable medical probability, will suffer physical impairment and loss of enjoyment of life in the future.

11.

PRAYER

WHEREFORE, Plaintiff prays that the Defendant be summoned to answer and appear and that upon final hearing that he recover judgment against the Defendant in the sum of \$500,000.00, costs of court, pre and post judgment interest, and such further relief to which he may be justly entitled.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Barry Benton", written over a horizontal line.

Barry R. Benton
284 Ebony Avenue
Brownsville, Texas 78520
Telephone (956) 546-9900
Facsimile (956) 546-9997
State Bar No. 02176500
Federal I.D. No. 3968
ATTORNEY IN CHARGE FOR
PLAINTIFF